previously evaluated or on any equipment important to safety. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes have no adverse effect on any of the design basis accidents previously evaluated and have no adverse effect on how the RPS and ESFAS function to mitigate the consequences of design basis accidents. Therefore, the license amendment request does not impact the probability of an accident previously evaluated nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will correct the maximum reactor power level specified; change RPS trip setpoints, allowable values, and bypass setpoints; change ESFAS trip setpoints, allowable values, and block setpoint changes; add a new Technical Specification and additional requirements associated with the automatic isolation of steam generator blowdown; and make various minor editorial and non-technical changes. There will be no adverse effect on equipment important to safety. The RPS and ESFAS will continue to function as designed to mitigate the consequences of design basis accidents. Therefore, there will be no significant reduction of the margin of safety as defined in the Bases for the Technical Specifications affected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: June 19, 1998.

Description of amendment request: The amendment to Unit 1 Technical Specifications (TS) involves the addition of a new section entitled ''Oscillation Power Range Monitoring (OPRM) Instrumentation'' and revisions to Section 3.4.1 ''Recirculation Loops Operating'' to remove the specifications related to thermal power stability which will not be required after the installation of the OPRM instrumentation. Unit 1 is currently operating under Interim Corrective Actions (ICAs) defined in TS 3.4.1 that specify restrictions on plant operation and actions by operators in response to instability events. The OPRM system provides an automatic long-term solution to the instability issue and eases the burden on the operator.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposal does not involve an increase in the probability or consequences of an accident previously evaluated.

The OPRM most directly affects the APRM and LPRM portions of the Power Range Neutron Monitoring system. Its installation does not affect the operation of these sub-systems. None of the accidents or equipment malfunctions affected by these sub-systems are affected by the presence or operation of the OPRM.

The APRM channels provide the primary indication of neutron flux within the core and respond almost instantaneously to neutron flux changes. The APRM Fixed Neutron Flux-High function is capable of generating a trip signal to prevent fuel damage or excessive reactor pressure. For the ASME overpressurization protection analysis in FSAR Chapter 5, the APRM Fixed Neutron Flux-High function is assumed to terminate the main steam isolation valve closure event. The high flux trip, along with the safety/relief valves, limit the peak reactor pressure vessel pressure to less than the ASME Code limits. The control rod drop accident (CRDA) analysis in Chapter 15 takes credit for the APRM Fixed Neutron Flux-High function to terminate the CRDA. The Recirculation Flow Controller Failure event (pump runup) is also terminated by the high neutron flux trip. The APRM Fixed Neutron Flux-High function is required to be OPERABLE in MODE 1 where the potential consequences of the analyzed transients could result in the Safety Limits (e.g., MCPR and Reactor pressure) being exceeded.

The installation of the OPRM equipment does not increase the consequences of a malfunction of equipment important to safety. The APRM and RPS systems are designed to fail in a tripped (fail safe) condition; the OPRM will have no affect on the consequence of the failure of either system. An inoperative trip signal is received by the RPS any time an APRM mode switch is moved to any position other than Operate, an APRM module is unplugged, the electronic operating voltage is low, or the APRM has too few LPRM inputs. These functions are not specifically credited in the accident analysis, but are retained for the RPS as required by the NRC approved licensing basis.

The OPRM allows operation under current operating conditions presently restricted by the current Technical Specifications by providing automatic suppression functions in the area of concern in the event an instability occurs. The consequences of any accident or equipment malfunction are not increased by operating under those conditions. Although protected by the OPRM from thermal-hydraulic core instabilities above 30% core power, operation under natural core recirculation conditions is not allowed. No accidents or transients of a type not analyzed in the FSAR are created by operating under these conditions with the protection of the OPRM system.

This change does not increase the probability of an accident as previously evaluated. The OPRM is designed and installed to not degrade the existing APRM, LPRM, and RPS systems. These systems will still perform all of their intended functions. The new equipment is tested and installed to the same or more restrictive environmental and seismic envelopes as the existing systems. The new equipment has been designed and tested to the electromagnetic interference (EMI) requirements of Reference 2, which assures correct operation of the existing equipment. The new system has been designed to single failure criteria and is electrically isolated from equipment of different electrical divisions and from non-1E equipment. The electrical loading is within the capability of the existing power sources and the heat loads are within the capability of existing cooling systems. The OPRM allows operation under operating conditions presently forbidden or restricted by the current Technical Specifications. No other transient or accident analysis assumes these operating restrictions.

Based upon the analysis presented above, PP&L concludes that the proposed action does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposal does not create the probability of a new or different type of accident from any accident previously evaluated. The OPRM system is a monitoring and accident mitigation system that cannot create the possibility for an accident.

The OPRM will allow operation in conditions currently restricted by the current Technical Specifications. Although protected by the OPRM from thermal-hydraulic core instabilities above 30% core power, operation under natural circulation conditions is not allowed. No accidents or transients of a type not analyzed in the FSAR are created by operating under these conditions with the protection of the OPRM system. No new failure modes of either the new OPRM equipment or of the existing APRM equipment have been introduced. Quality software design, testing, implementation and module self-health testing provides assurance that no new equipment malfunctions due to software errors are created. The possibility of an accident of a new or different type than any evaluated previously is not created.

The new OPRM equipment is designed and installed to the same system requirements as the existing APRM equipment and is designed and tested to have no impact on the existing functions of the APRM system. Appropriate isolation is provided where new interconnections between redundant separation groups are formed. The OPRM modules have been designed and tested to assure that no new failure modes have been introduced.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

There has been no reduction in the margin of safety as defined in the basis for the Technical Specifications. The OPRM system does not negatively impact the existing APRM system. As a result, the margins in the Technical Specifications for the APRM system are not impacted by this addition.

Current operation under the ICAs provides an acceptable margin of safety in the event of an instability event as the result of preventive actions and Technical Specification controlled response by the control room operators. The OPRM system provides an increase in the reliability of the protection of the margin of safety by providing automatic protection of the MCPR safety limit, while the protection burden is significantly reduced for the control room operators. This protection is demonstrated as described above, and in the NRC reviewed and approved Topical Reports NEDO–32465–A and CENPD–400–P–A.

Replacement of the ICA operating restrictions from Technical Specifications with the OPRM system does not affect the margin of safety associated with any other system or fuel design parameter.

Therefore, the change does not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: July 6, 1998

Description of amendment request: The proposed Technical Specification (TS) changes represent revisions to the Radiological Effluent Technical Specification (RETS) Section 3.5.b.1, ''Main Condenser Steam Jet Air Ejector (SJAE)'' and Table 3.10–1 ''Radiation Monitoring Systems that Initiate and/or Isolate Systems'' including associated TS Bases. The existing RETS for radiation monitoring instrumentation systems that initiate and/or isolate systems will be changed by adding Allowable Outage Times (AOTs) and incorporating editorial and administrative changes to clarify requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The inherent redundancy and reliability of the protective instrumentation trip systems ensure that the consequences of an accident are not significantly increased. In addition, the restrictive Allowable Outage Time (AOT) interval limits the probability of the protective instrument channel being unavailable and an accident requiring its function from occurring simultaneously. The requirement that the associated trip function maintains trip capability for selected instrumentation ensures that the protective instrumentation response will occur such that the consequences of an accident are not different from those previously evaluated. The proposed changes provide AOTs for test and repair of plant instrumentation. The changes do not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints. Therefore, the changes do not degrade the performance of any safety system assumed to function in the accident analysis. Consequently, there is no effect on the probability of occurrence of an accident.

Regarding the consequences of an accident, the GE Licensing Topical Reports (References 1 and 2) [GE Topical Report NEDC–31677P–A, ''Technical Specification Improvement Analysis for BWR Isolation Actuation Instrumentation,'' July 1990 and GE Topical Report GENE–770–06–1–A, ''Bases for Changes to Surveillance Test Intervals and Allowed Out-Of-Service Times for Selected Instrumentation Technical Specifications,'' December 1992] conclude that the proposed AOT for the safety system instrumentation results in an insignificant change in the core damage frequency. The AOTs result in a slight increase in the unavailability of the safety functions. The overall effect on the probability of an accident is negligible. The NRC concurred in their SERs [safety evaluation reports] (References 3 and 4) [NRC Safety Evaluation Report, letter from Charles E. Rossi, NRC to S.D. Floyd, BWR Owners Group, ''General Electric Company Topical Report NEDC–31677P, Technical Specification Improvement Analysis for BWR Isolation Actuation Instrumentation'', June 18, 1990 and NRC Safety Evaluation Report, letter from Charles E. Rossi, NRC to R.D. Binz, BWR Owners Group, ''General Electric Company Topical Report GENE–770–06–1, Bases for Changes to Surveillance Test Intervals and Allowed Out-Of-Service Times for Selected Instrumentation Technical Specifications,'' July 21, 1992] with this conclusion. Consequently, there is not a significant increase in the consequences of an accident.

Since the editorial and administrative items do not alter the meaning or intent of any requirements, they do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the protective instrumentation trip system specifications do not create the possibility of a new or different kind of accident because they do not introduce any new operational modes or physical modifications to the plant.

For systems with only one channel (Main Control Room Ventilation) or two-out-of-two logic system (SJAE Radiation Monitors) a six-hour surveillance AOT is being proposed and a repair time AOT is not allowed. This is consistent with GE Topical Reports referenced in current TS Bases 4.2 and STS [Standard Technical Specifications] and therefore, will not introduce a new or different kind of accident than previously evaluated.

Since the editorial and administrative items do not alter plant configurations or operating modes, they do not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The protective instrumentation surveillance requirements provide verification of the operability of the trip system instrumentation channels. In addition, the redundant channel that monitors the identical Trip Function maintains trip capability for the relatively short duration of the test or repair time period. This ensures that protective

instrumentation reliability is maintained. The proposed change provides for a specific time period to perform required surveillances on instrument channels without trips present in associated trip systems. This time allotment tends to enhance the margin of safety by decreasing the probability of unnecessary challenges to safety systems and inadvertent plant transients. The evaluations presented in the referenced GE Licensing Topical Reports concluded that the overall effect of the proposed changes provides a net increase in plant safety.

The only action resulting from the proposed changes to RETS is to add AOTs for selected instrumentation. Spurious signals during testing could initiate plant transients. These transients are bounded by the current transient analysis. These tests do not subject the instruments to any conditions beyond their design specifications and are performed in accordance with approved testing standards. This testing ensures equipment operability by identifying degraded conditions, initiating corrective action and properly retesting them. Therefore, the proposed RETS do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David E. Blabey, 1633 Broadway, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: June 25, 1998.

Description of amendment request: The proposed changes affect Technical Specification (TS) Surveillance Requirement 4.5.1.d.2.b by deleting the requirement to perform in-situ functional testing of the Automatic Depressurization System (ADS) safety relief valves (SRVs) during startup testing activities. The proposed changes also affect TS Surveillance Requirement 4.4.2.1.b such that the 18-month channel calibration for the SRV acoustic monitors will no longer require an exception to the provisions of TS 4.0.4, nor adjustments to SRV full open noise levels.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change does not involve any physical changes to plant structures, systems or components (SSC). The ADS will continue to function as designed. The ADS is an Emergency Core Cooling System (ECCS) designed to mitigate the consequences of an accident, and therefore, can not contribute to the initiation of any accident. The ADS utilizes five of the 14 main steam line SRVs as the primary method for depressurizing the reactor pressure vessel to permit low pressure core cooling capability in the event of a small break Loss-of-Coolant-Accident (LOCA) if the high pressure cooling systems (i.e., High Pressure Cooling Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems) fail to maintain adequate reactor vessel water level.

Deleting the TS surveillance requirements to perform the in-situ testing of the ADS/SRVs during startup, as proposed, should reduce the probability of an inadvertent opening of an SRV as discussed in Section 15.1.4 of the Hope Creek [Updated Final Safety Analysis Report] UFSAR since deleting this testing requirement will eliminate a known initiator of SRV pilot leakage and subsequent erosion. This proposed TS change will have a tendency to increase, rather than decrease, the reliability of the ADS/SRVs by eliminating the in-situ ADS functional startup testing. The probability of the ADS/SRVs to open on demand has been demonstrated to be extremely high and is not measurably improved through the in-situ ADS functional startup testing.

Using the provisions of 10CFR50.59, PSE&G will establish a method for performing SRV acoustic monitor channel calibration that does not require reactor steam pressure or SRV opening. This testing method will comply with the current TS definition of CHANNEL CALIBRATION. Since the notes associated with TS Surveillance Requirement 4.4.2.1 (providing a compliance exception to the provisions of TS 4.0.4 to allow for proper reactor steam pressure to perform the test and an allowance for noise level adjustments) are no longer needed, their removal will not affect plant operation or testing and will not involve an increase in the probability or consequences of an accident previously evaluated.

This proposed TS change will not increase the probability of occurrence of a malfunction of any plant equipment important to safety. Alternate testing methods at Hope Creek and at the offsite test facility adequately demonstrate proper ADS valve operation and assure that the valves will continue to function as designed. Existing surveillance testing and inspections of the ADS/SRVs at Hope Creek verify that the ADS initiation logic, solenoid valve operation, pneumatic gas supply integrity and air operator assembly (including pilot rod) will operate as designed. Offsite testing verifies pilot disc operation, setpoint calibration, stroke time and main valve disc operation.

Deleting the in-situ testing requirement, as proposed, will reduce the probability of increasing SRV leakage, which should reduce the probability of an inadvertent opening of an SRV. Therefore, any SRV pilot leakage that can be eliminated would reduce the probability of occurrence of a malfunction of that SRV. Deleting the ADS/SRV in-situ functional test will in no way increase any consequences of a malfunction of plant equipment important to safety. The consequences of a malfunction of an ADS/SRV as discussed in the Hope Creek UFSAR remain unchanged.

In addition, eliminating a known initiator of SRV leakage, as proposed in this TS change, would help reduce operator workarounds in the form of suppression pool cooling and letdown operation activities. As a result, this will reduce the unnecessary operation of the Residual Heat Removal (RHR) and its supporting systems.

Therefore, the proposed TS change does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not involve any physical changes to plant SSC. The design and operation of the ADS/SRVs are not changed from that currently described in the UFSAR. The ADS will continue to function as designed to mitigate the consequences of an accident. No changes of any kind are being made to the valves, auxiliary components or ADS logic. Deleting the requirement to perform the ADS in-situ functional test during plant startup as proposed in this TS change request reduces the likelihood of an SRV developing a leak and degrading throughout the subsequent operating cycle. Therefore, there is no possibility that implementing this proposed TS change would create a different type of malfunction to the ADS/SRVs than any previously evaluated.

Eliminating the requirement to perform the in-situ testing of the ADS/SRVs during startup activities does not create a new or different type of accident than any previously evaluated. There is no accident scenario associated with testing the ADS/SRVs other than the inadvertent opening of a relief valve, which is currently discussed in Section 15.1.4 of the UFSAR. The proposed TS changes do not alter the conclusions described in the UFSAR regarding an inadvertent opening of an SRV. No new or different type of accident will be created as a result of these proposed changes.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any previously evaluated.

Using the provisions of 10CFR50.59, PSE&G will establish a method for performing SRV acoustic monitor channel calibration that does not require reactor

steam pressure or SRV opening. This testing method will comply with the current TS definition of CHANNEL CALIBRATION. Since the notes associated with TS Surveillance Requirement 4.4.2.1 (providing a compliance exception to the provisions of TS 4.0.4 to allow for proper reactor steam pressure to perform the test and an allowance to perform noise level adjustments) are no longer needed, their removal will not affect plant operation or testing and will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed TS change involves deleting the requirement to perform in-situ functional testing of the ADS/SRVs during startup activities. This testing imposes an unnecessary challenge on the ADS/SRVs and has been linked to SRV degradation (e.g., pilot valve and/or main valve leakage). This proposed TS change should reduce SRV leakage and improve ADS/SRV reliability by reducing the potential for spurious SRV actuation. Since ADS operability can be readily demonstrated with extremely high confidence by the existing surveillance tests and inspections performed for the ADS, there will be no reduction in any margin of safety resulting from this proposed TS change. Therefore, the proposed TS change does not involve a significant reduction in a margin of safety.

Using the provisions of 10CFR50.59, PSE&G will establish a method for performing SRV acoustic monitor channel calibration that does not require reactor steam pressure or SRV opening. This testing method will comply with the current TS definition of CHANNEL CALIBRATION. Since the notes associated with TS Surveillance Requirement 4.4.2.1 (providing a compliance exception to the provisions of TS 4.0.4 to allow for proper reactor steam pressure to perform the test and an allowance to perform noise level adjustments) are no longer needed, their removal will not affect plant operation or testing and will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: February 18, 1998.

Description of amendment request: The proposed amendment would revise the Watts Bar Nuclear Plant (WBN) Technical Specifications (TS) and associated Bases to address a new condition (Condition B) and associated actions in which one train (consisting of two valves) of Steam Generator Atmospheric Dump Valves (ADVs), although functional, would be considered technically INOPERABLE in the event of one train of the auxiliary control air system (ACAS) was out of service. The action required for the new condition is to restore the ADV lines to OPERABLE status within 72 hours. In addition, the proposed amendment would make a correction to the required action for Condition B (new Condition C) to clarify that the required action for two or more inoperable ADV lines (with the exception of new Condition B) is to restore all but one ADV line to operable status. The current Required Action for Condition B incorrectly states that only one ADV line must be restored to operable status.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of the 72 hour completion time and clarification to existing TS do not increase the probability of an accident previously evaluated since these changes do not result in hardware or procedural changes which will affect probability of occurrence of an accident. The probability of an accident occurring during the 72 hour period as compared to the 24 hour completion time currently in the TS remains small. Further, addition of the 72 hour completion time and clarification to existing TS does not increase the consequences of an accident previously evaluated since sufficient equipment and procedures remain available to mitigate accidents previously evaluated. With two ADVs inoperable under this LCO, two ADVs remain in service. As indicated in the Applicable Safety Analysis of the TS Basis, two valves are adequate to cool the unit to the RHR [residual heat removal] entry conditions subsequent to accidents accompanied by a loss of offsite power. In addition, as indicated in the background discussion of the Bases of 3.7.4, the ADVs can be operated by use of a bottled nitrogen system designed to open the valves in the event of loss of normal and emergency air supplies. The valves may also be operated manually by using the valve hand wheels. Consequently, the two inoperable ADVs under this LCO are still expected to remain functional and could be placed in service and used to cool the steam generators, if necessary, in the event of an accident. Based on the above, the addition of the 72 hour completion time and clarifications to existing TS in accordance with this proposed amendment do not significantly increase the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The addition of the 72 hour completion time and clarifications to existing TS does not cause the initiation of any accident nor create any new credible limiting failure for safety-related systems and components. The change does not result in an event previously deemed incredible being made credible. As such, it does not create the possibility of an accident different than any evaluated in the FSAR [Final Safety Analysis Report]. The change has an insignificant effect on the ability of the safety-related systems to perform their intended safety functions. Although the period during which a safety-related function (ACAS air supply) is assumed inoperable is extended from 24 to 72 hours, sufficient remaining equipment (two ADVs supplied by the opposite train ACAS) is available to mitigate the limiting [steam generator tube rupture] SGTR accident, assuming no single failure occurs. Also, additional redundant and diverse equipment (normal control air, emergency bottled nitrogen, and the valve hand wheels) is available and expected to remain functional to ensure the ADVs accomplish their function following an accident. The change does not create failure modes that could adversely impact safety-related equipment. Therefore, the change will not create the possibility of a malfunction of equipment important to safety different than previously evaluated in the FSAR. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The TS currently allow two or more ADVs to be out of service for 24 hours, based on low probability of an event occurring during the period which would require use of the ADVs, and based on availability of the steam dump valves and the MSSVs [main steam safety valves]. Providing a 72 hour completion time specifically for loss of two ADV valves due to loss on one train of ACAS to the ADVs does not significantly reduce the margin of safety since the probability of an event occurring during the 72 hour period is still small, and the capability exists to use the inoperable ADVs by manually operating the valves using the valve hand wheels, or by connecting the valve nitrogen bottle system, which was designed to operate the valves upon loss of air. In addition, the MSSVs, and the condenser steam dump valves would normally also be available. Thus, the proposed change does not significantly reduce the margin of safety.

Further, the NRC staff notes that the proposed change to the TS action statement for two or more ADV lines inoperable to

require restoration of all but one of the four ADV lines, instead of the previous requirement to restore only one ADV line to operable status, is more restrictive and more conservative than the action statement as currently written. The change also makes the action statement consistent with the existing TS Bases in Section B 3.7.4, Action B.1. Accordingly, the staff proposes to find that this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review and the staff's additional assessment as provided above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: May 6, 1998.

Description of amendment request: The proposed amendment would modify the Watts Bar Nuclear Plant (WBN) Technical Specifications (TSs) by revising the allowed enrichment of fuel stored in the new fuel storage racks from 4.3 to 5.0 weight percent uranium-235 (U–235). The revision also places limitations on fuel storage locations that may be utilized in the storage racks and provides additional limits on k(effective) when flooded with unborated water.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the allowed enrichment of new fuel stored in the new fuel storage racks does not change the criticality potential with the proposed fuel arrangement requirements for the storage racks. The potential k_{eff} values are maintained the same as the current TS requirements. In addition, the storage racks are not modified and the processes for loading and unloading fuel in these racks and the controls for these racks remain the same except for the storage limitations dictated by the criticality analysis. Additional controls are required with appropriate verification to assure the fuel is stored within the analysis assumptions. Handling procedures contain additional steps to specifically verify prohibited cells remain empty after fuel movement. This verification assures that the probability of a criticality event is not increased by the enrichment change. Since the k_{eff} limits and operating processes are unchanged by the proposed revision, there is no increase in the probability of an accident previously evaluated. Likewise, there is no impact to the consequences of an accident or increase in offsite dose limits as a result of the proposed TS change because the criticality requirements are unchanged and plant equipment will be utilized and operated without change considering the fuel storage location limits imposed by this request.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the plant equipment and operating processes will not be altered by the proposed TS change with the exception of allowed fuel storage locations in the new fuel storage racks. The limitations on acceptable fuel storage locations in the racks ensure that the k(effective) limits are maintained at the same limits as currently required. TVA has not postulated a criticality event at WBN for the spent or new fuel storage locations because the design of the associated storage racks, potential moderation, and TS allowable fuel enrichments do not support the potential for this condition. Therefore, this change does not create the potential for a new accident from any previously analyzed.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed TS change maintains the existing requirements for criticality by utilizing limited storage locations in the new fuel pit storage racks. There is no change to operating practices associated with the use and control of these racks except for the storage limitations. For these reasons, there will be no reduction in the margin [of] the safety as a result of implementing the proposed TS change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: July 13, 1998.

Description of amendment request: The proposed license amendment would revise Perry Nuclear Power Plant Technical Specification 3.4.4, ''Safety/Relief Valves (S/RVs),'' by increasing the present [plus or minus] 1% tolerance on the safety mode lift setpoint for the safety/relief valves to [plus or minus] 3%. This change would be performed in accordance with General Electric Topical Report NEDC–31753P, ''BWROG In-Service Pressure Relief Technical Specification Revision Licensing Topical Report.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously identified.

The proposed change allows an increase in the as-found safety relief valve (SRV) safety mode setpoint tolerance, determined by test after the valves have been removed from service, from [plus or minus] 1% to [plus or minus] 3%. The proposed change does not alter the Technical Specification requirements on the nominal SRV safety mode lift setpoints, the SRV relief mode setpoints, the required frequency for the SRV lift setpoint tests, or the number of SRVs required to be operable. This change does not involve physical changes to the SRVs, nor does it change the operating characteristics or safety function of the SRVs.

Consistent with current requirements, this change continues to require that the SRVs be adjusted to within [plus or minus] 1% of their nominal lift setpoints following testing. This change does not change the behavior and operation of any SRV and therefore has no significant impact to reactor operation. It also has no significant impact on response to any perturbation of reactor operation including transients and accidents previously analyzed in the Updated Safety Analysis Report. In addition, this change does not change SRV actuation. Therefore, this change will not increase the probability of an accident previously evaluated.

Generic considerations related to the change in setpoint tolerance were addressed

in NEDC–31753P, ''BWROG In-Service Pressure Relief Technical Specification Revision Licensing Topical Report,'' and were reviewed and approved by the NRC. The plant specific evaluations, required by the NRC's Safety Evaluation for NEDC–31753P and performed to support this proposed change, are contained in NEDC–32307P, ''Safety Review for PNPP Safety/Relief Valve Setpoint Tolerance Relaxation/Out-of-Service Analyses,'' dated May 1994. These analyses and evaluations show that there is adequate margin to the design core thermal limits and to the reactor vessel pressure limits using a [plus or minus] 3% SRV setpoint tolerance. They also show that operation of the high pressure injection systems will not be adversely affected; and the containment response from a loss of coolant accident will be acceptable.

(2) The proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to allow an increase in the SRV safety mode setpoint tolerance from [plus or minus] 1% to [plus or minus] 3% does not alter the nominal SRV lift setpoints or the number of SRVs required to be operable. This change does not involve physical changes to the SRVs, nor does it change the operating characteristics or the safety function of the SRVs. The proposed change does not involve a physical alteration of the plant. No new or different equipment is being installed. The proposed change does not impact core reactivity nor the manipulation of fuel bundles. There is no alteration to the parameters within which the plant is normally operated. As a result no new failure modes are being introduced. There are no changes in the methods governing normal plant operation, nor are the methods utilized to respond to plant transients altered.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) The proposed change will not involve a significant reduction in the margin of safety.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation. The proposed change does not significantly impact any safety analysis assumptions or results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Ronald R. Bellamy (Acting).

Previously Published Notices of Consideration of Issuance of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: July 8, 1998.

Description of amendment request: The proposed amendments would allow temporary noncompliance with the Penetration Room Ventilation System air flow surveillance requirements of Technical Specification 4.5.4.1.b.1 until modifications can be completed to support testing in accordance with ANSI Standard N510–1975, as required by the Technical Specifications.

Date of publication of individual notice in **Federal Register**: July 16, 1998 (63 FR 38433).

Expiration date of individual notice: August 17, 1998.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 18, 1998.

Brief description of amendment: Amend the Crystal River Unit 3 (CR3) Improved Technical Specifications to allow operation with a number of indications previously identified as tube end anomalies and multiple tube end anomalies in the CR3 Once Through Steam Generator tubes.

Date of publication of individual notice in the **Federal Register**: June 30, 1998 (63 FR 35615).

Expiration date of individual notice: July 15, 1998.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: June 19, 1998 (supersedes April 11, 1997, application), as supplemented July 1, 1998, and information provided in a letter of May 5, 1997.

Brief description of amendment request: The proposed amendment would revise Section 3.6.C, Coolant Chemistry, and 3/4.17.B, Control Room Emergency Filtration System, of the Technical Specifications (TS), Appendix A of the Operating License for the Monticello Nuclear Generating Plant. The changes were proposed to establish TS requirements consistent with modified analysis inputs used for the evaluation of the radiological consequences of the main steam line break accident. This amendment request was originally noticed in the **Federal Register** on May 6, 1998 (63 FR 25115). On June 19, 1998, supplemented July 1, 1998, the licensee submitted an application that superseded in its entirety the licensee's previous submittal dated April 11, 1997.

Date of publication of individual notice in **Federal Register**: July 28, 1998 (63 FR 40321).

Expiration date of individual notice: August 27, 1998.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: February 24 1998, as supplemented by letter dated May 27, 1998.

Brief description of amendment: The amendment would support a modification to the Callaway Plant, Unit 1 to increase the storage capacity of the spent fuel pool.

Date of individual notice in **Federal Register**: July 13, 1998 (63 FR 37598).

Expiration date of individual notice: August 12, 1998.

Local Public Document Room location: University of Missouri-Columbia, Elmer Ellis Library, Columbia, Missouri 65201–5149.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 20, 1998, as supplemented by letter dated May 28, 1998.

Brief description of amendment: The amendment would support a modification to the Wolf Creek Nuclear Generating Station, Unit 1 to increase the storage capacity of the spent fuel pool.

Date of individual notice in **Federal Register**: July 13, 1998 (63 FR 37601).

Expiration date of individual notice: August 12, 1998.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: February 20, 1998.

Brief description of amendment: This amendment changed the Pilgrim Nuclear Power Station Technical Specification (TS) 3/4.5.B and its Bases to incorporate the ultimate heat sink (UHS) temperature of 75 °F, as required by Amendment No. 173. The introduction of a UHS temperature restriction requires new specifications, actions, and surveillances for the salt service water system. The amendment also replaced existing specification 3.5.B ''Containment Cooling System'' with new Specification 3/4.5.B.1 ''Residual Heat Removal (RHR) Suppression Pool Cooling'', 3/4.5.B.2 ''Residual Heat Removal (RHR) Containment Spray'', 3/4.5.B.3 ''Reactor Building Closed Cooling Water (RBCCW) System'', and 3/4.5.B.4 ''Salt Service Water (SSW) System and Ultimate Heat Sink (UHS)''.

Date of issuance: July 28, 1998.

Effective date: July 28, 1998.

Amendment No.: 176.

Facility Operating License No. DPR–35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17221).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: September 19, 1997, as supplemented June 15, 1998.

Brief description of amendment: The amendment relocates the Radioactive Effluent Technical Specifications and the Radiological Environmental Monitoring Program to the Offsite Dose Calculation Manual, in accordance with the recommendations of Generic Letter 89–01. Changes are also being made to other sections of the Technical Specifications to align them with NUREG–1433, to minimize changes when converting to the Improved Standard Technical Specifications.

Date of issuance: July 31, 1998.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 177.

Facility Operating License No. DPR–35: Amendment revised the Technical Specifications and the license.

Date of initial notice in **Federal Register**: February 25, 1998 (63 FR 9591).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: June 26, 1998, as supplemented July 22, 1998.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.7.8, ''Ultimate Heat Sink (UHS),'' to permit an 8-hour delay in the UHS temperature restoration period prior to entering the plant shutdown required actions. This TS amendment is given as a one-time amendment change effective until September 30, 1998, after which the TS will revert back to the original TS provisions.

Date of issuance: July 29, 1998.

Effective date: July 29, 1998.

Amendment No.: 179.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (63 FR 36967 dated July 8, 1998). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by August 7, 1998, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of NSHC are contained in a Safety Evaluation dated July 29, 1998.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: P. T. Kuo, Acting.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: March 30, 1998.

Brief description of amendments: The amendments will (1) restore Custom Technical Specifications (CTS) and the associated license conditions that had been replaced by Improved Technical Specifications (ITS), (2) change certain management titles and responsibilities to reflect the permanently shutdown condition of the plant, (3) allow use of Certified Fuel Handlers in lieu of licensed operators, (4) modify shift crew composition, and (5) eliminate verbiage that imples the units are operational.

Date of Issuance: July 24, 1998.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 179 & 166.

Facility Operating License Nos. DPR–39 and DPR–48: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25105). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: June 6, 1997, as supplemented September 25, 1997.

Brief description of amendment: The amendment revises Technical Specifications (TS) Table 4.1–2, Frequency for Sampling Tests, to delete the requirement to sample the spray additive tank and delete the requirement for a sodium hydroxide (NaOH) spray additive in TS Section 5.2.C.1.

Date of issuance: July 29, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 197.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4310).

The September 25, 1997, letter provided clarifying information that did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: March 3, 1998, as supplemented by letters dated April 24, May 7, and July 22, 1998.

Brief description of amendments: The amendments revise Figure 5.1–1 of the Technical Specifications (TS) to show the new location of the meteorological tower. The meteorological tower will be relocated to a new location to facilitate use of the current location as a construction site. The proposed TS change does not change the related TS Section 5.1.1.

Date of issuance: July 30, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—179; Unit 2—161.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 29, 1998 (63 FR 35293).

The July 22, 1998, submittal provided clarifying information that did not change the scope of the March 3, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, Charlotte, North Carolina.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, (BVPS–1 and BVPS–2) Shippingport, Pennsylvania

Date of application for amendments: June 19, 1998, as supplemented June 23, 1998.

Brief description of amendments: These amendments revise the BVPS–1 and BVPS–2 Technical Specifications (TSs) definitions of a channel calibration to add two sentences stating that (1) the calibration of instrument channels with resistance temperature detector or thermocouple sensors may consist of an inplace qualitative assessment of sensor behavior and normal calibration of the remaining adjustable devices in the channel and (2) whenever a sensing element is replaced, the next required channel calibration shall include an inplace cross calibration that compares the other sensing elements with the recently installed sensing element. This change makes the BVPS–1 and BVPS–2 TS definition of channel calibration consistent with the definition of a channel calibration contained in the NRC's improved Standard Technical Specifications for Westinghouse Plants (NUREG–1431, Revision 1).

Date of Issuance: July 28, 1998.

Effective date: Both units, effective immediately, to be implemented within 30 days.

Amendment Nos.: 216 and 93.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 26, 1998 (63 FR 34939).

The June 23, 1998, letter provided minor editorial changes to the TS pages that did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the June 26, 1998 **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: March 20, 1998, and supplemented May 22, 1998.

Brief description of amendment: The amendment proposed to revise Improved Technical Specification Safety Limits and Administrative Controls to replace the titles of the Senior Vice President, Nuclear Operations and the Vice President, Nuclear Production with the position of Chief Nuclear Officer.

Date of issuance: July 20, 1998.

Effective date: July 20, 1998.

Amendment No.: 168.

Facility Operating License No. DPR–72: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25109).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 20, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: December 29, 1997, as supplemented by June 15, 1998.

Brief description of amendment: The amendment will modify the Technical Specifications for selected cycle-specific reactor physics parameters to refer to the St. Lucie Unit 2 Core Operating Limits Report for limiting values.

Date of Issuance: July 24, 1998.

Effective Date: July 24, 1998.

Amendment No.: 92.

Facility Operating License No. NPF–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 11, 1998 (63 FR 6985).

The June 15, 1998, supplement provided clarifying information that did not change the scope of the December 29, 1997 application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 10, 1997, as supplemented December 26, 1997, and July 16, and July 28, 1998.

Brief description of amendment: The amendment revised the Technical Specifications to reflect the adoption of the BWR Owner's Group Long-Term Solution Stability System Option 1–D in addressing reactor operation in or near a region of potential thermal hydraulic instability.

Date of issuance: July 29, 1998.

Effective date: July 29, 1998, to be implemented within 30 days.

Amendment No.: 177.

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 26, 1997 (62 FR 14462).

The December 26, 1997, July 16, and July 28, 1998, submittals provided clarifying information and an administrative change that did not alter the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: January 15, 1998, as supplemented May 29, 1998.

Brief description of amendments: The amendment allows a reduction in the required number of incore instrumentation detectors for the remainder of Unit 1, Cycle 19 operation.

Date of issuance: July 28, 1998.

Effective date: July 28, 1998, with full implementation within 30 days.

Amendment Nos.: 136.

Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 30, 1998 (63 FR 4676) The May 29, 1998, supplement provided clarifying information within the scope of the **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: December 12, 1997.

Brief description of amendment: The amendment revises the working hours for operating personnel to allow 8- to 12-hour work days, nominal 40-hour weeks. In addition, associated changes are being made to surveillance intervals to maintain the same frequency.

Date of issuance: July 24, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 244.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4321).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: March 31, 1997, as supplemented June 18, 1997, October 10, 1997, October 20, 1997, November 11, 1997, December 22, 1997, January 15, 1998, January 27, 1998, March 30, 1998, April 23, 1998, April 27, 1998, May 8, 1998, and May 22, 1998.

Brief description of amendment: This amendment changes the Technical Specifications to accommodate the modification of the spent fuel pool by replacing the three Region 1 rack modules with seven new borated stainless steel rack modules scheduled for implementation in 1998. Six new peripheral modules would be added at some future date. Two of the seven new modules planned to be installed in 1998 are to be designated as part of Region 2, effectively increasing the Region 2 area. The other five new modules compose Region 1, resulting in a total of 294 storage positions in Region 1. Region 2, with 1075 storage positions, consists of three rack types, Type 1, Type 2, and Type 4. Type 1 cells are the Boraflex cells that form Region 2 for the existing license. Two racks of Type 2 cells, containing borated stainless steel (BSS) absorber plates are be added to increase

the storage capacity of Region 2. In addition, the capacity of Region 2 could be increased in the future by the addition of Type 4 racks, which also contain BSS absorber plates. The amendment increases the boron concentration from 300 ppm to 2300 ppm.

Date of issuance: July 30, 1998.

Effective date: July 30, 1998.

Amendment No.: 72.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 30, 1998 (63 FR 35617).

The May 8 and 22, 1998, letters provided clarifying information that did not change the proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Southern Nuclear Power Company, Inc., et al. Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant (VEGP), Units 1 and 2, Burke County, Georgia

Date of application for amendments: May 8, 1998.

Brief description of amendments: The amendments revise VEGP Technical Specification 5.5.7, ''Reactor Coolant Pump Flywheel Inspection Program,'' to provide an exception to the examination requirements of Regulatory Position C.4.b of Regulatory Guide 1.14, Revision 1, dated August 1975.

Date of issuance: July 21, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—103; Unit 2—81.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 17, 1998 (63 FR 33108).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 21, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 25, 1998 (TS 97–06).

Brief description of amendments: The amendments change the Technical Specifications (TS) by revising the surveillance requirements for the emergency diesel generators.

Date of issuance: July 22, 1998.

Effective date: To be implemented no later than 45 days after issuance.

Amendment Nos.: Unit 1—234; Unit 2—224.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TS.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17235).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: May 2, 1995, as supplemented October 12, 1995, March 26, 1996, December 15, 1997, and May 27, 1998 (TSCR 172).

Brief description of amendments: These amendments revise the Technical Specifications (TS) Table 15.4.1–1, ''Minimum Frequencies For Checks, Calibrations, and Tests Of Instrument Channels,'' to change the test frequency of the containment high range radiation monitor, revise note 7, and revise item 36 to clarify which monitors in the radiation monitoring system support current TS or meet the requirements of 10 CFR 50.36. In addition several administrative changes to referenced TS sections and plant system titles were made to correct omissions from previous amendments.

Date of issuance: July 17, 1998.

Effective date: July 17, 1998. The TS are to be implemented within 45 days from the date of issuance. Implementation shall also include relocation of certain TS requirements to licensee-controlled documents, as described in the licensee's application dated May 2, 1995, as supplemented October 12, 1995, March 26, 1996, December 15, 1997, and May 27, 1998, and evaluated in the staff's safety evaluation attached to these amendments.

Amendment Nos.: 185 and 189.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25122).

The May 27, 1998, submittal provided additional clarifying information and updated TS pages. This information was within the scope of the original **Federal Register** notice and did not change the staff's initial no significant hazards considerations determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: May 15, 1998 (TSCR 205, NPL–98–0303).

Brief description of amendment: This amendment revises the schedule for implementing the boron concentration changes from refueling outage 24 to refueling outage 23 for the planned conversion of Unit 2 to 18-month fuel cycles.

Date of issuance: July 21, 1998.

Effective date: July 21, 1998, with full implementation within 45 days.

Amendment No.: 190.

Facility Operating License No. DPR–27: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 17, 1998 (63 FR 33111).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 17, 1998.

Brief description of amendment: The amendment revised Technical Specification 3/4.7.5, Ultimate Heat Sink, by adding a new Action Statement to be used in the event that plant inlet water temperature exceeds 90 degrees F.

Date of issuance: July 18, 1998.

Effective date: July 18, 1998.

Amendment No.: 118.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 18, 1998.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, D.C. 20037.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 24, 1995, as supplemented by letters dated July 26, 1995, and September 5, 1996.

Brief description of amendment: The amendment adds a new action statement to Technical Specification (TS) 3.5.1 which provides a 72-hour allowed outage time (AOT) for one accumulator to be inoperable because its boron concentration did not meet the 2300–2500 parts per million band. In addition, TS surveillance requirements are changed to incorporate the guidance of Generic Letter 93–05, ''Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Operation'' that is applicable to the accumulators, and the TS Bases section for TS 3/4.5.1 is revised to reflect the changes described above. Instrumentation surveillance requirements associated with the accumulator are being relocated from the technical specifications to Chapter 16 of the Updated Safety Analysis Report.

Date of issuance: July 21, 1998.

Effective date: July 21, 1998, to be implemented within 30 days from the date of issuance.

Amendment No.: 119.

Facility Operating License No. NPF–42. The amendment revised the Operating License and Technical Specifications.

Date of initial notice in **Federal Register**: April 12, 1995 (60 FR 18632).

The July 26, 1995, and September 5, 1996, supplemental letters provided additional clarifying information and did not change the initial no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 5th day of August 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–21724 Filed 8–11–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23380; 812–11216]

CIBC Oppenheimer Corp.; Notice of Application

August 5, 1998.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1) of the Act, under section 6(c) of the Act for an exemption from section 14(a) of the Act, and under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: CIBC Oppenheimer Corp. (''CIBC'') requests an order with respect to the REDSS trusts (''REDSS Trusts'') and future trusts that are substantially similar to the REDSS Trusts and for which CIBC will serve as a principal underwriter (collectively, the ''Trusts'') that would (i) permit other registered investment companies, and companies excepted from the definition of investment company under section 3(c)(1) or (c)(7) of the Act, to own a greater percentage of the total outstanding voting stock (the ''Securities'') of any Trust than that permitted by section 12(d)(1), (ii) exempt the Trusts from the initial net worth requirements of section 14(a), and (iii) permit the Trusts to purchase U.S. government securities from CIBC at the time of a Trust's initial issuance of Securities.

FILING DATES: The application was filed on July 8, 1998.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving CIBC with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 31, 1998, and should be accompanied by proof of service on CIBC, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. CIBC Oppenheimer Corp., CIBC Oppenheimer Tower, World Financial Center, New York, New York 0281. Copy to Thomas A. McGavin, Jr., Esq., Rogers & Wells LLP, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Each Trust will be a limited-life, grantor trust registered under the Act as a non-diversified, closed-end management investment company. CIBC will serve as a principal underwriter (as defined in section 2(a)(29) of the Act) of the Securities issued to the public by each Trust.

2. Each Trust will, at the time of its issuance of Securities, (i) enter into one or more forward purchase contracts (the ''Contracts'') with a counterparty to purchase a formulaically-determined number of a specified equity security or securities (the ''Shares'') of one specified issuer,[1] and (ii) in some cases, purchase certain U.S. Treasury securities (''Treasuries''), which may include interest-only or principal-only securities maturing at or prior to the Trust's termination. The Trusts will purchase the Contracts from counterparties that are not affiliated

[1] Initially, no Trust will hold Contracts relating to the Shares of more than one issuer. However, if certain events specified in the Contracts occur, such as the issuer of Shares spinning-off securities of another issuer to the holders of the Shares, the Trust may receive shares of more than one issuer at the termination of the Contracts.

with either the relevant Trust or CIBC. The investment objective of each Trust will be to provide to each holder of Securities (''Holder'') (i) current cash distributions from the proceeds of any Treasuries, and (ii) participation in, or limited exposure to, changes in the market value of the underlying Shares.

3. In all cases, the Shares will trade in the secondary market and the issuer of the Shares will be a reporting company under the Securities Exchange Act of 1934. The number of Shares, or the value of the Shares, that will be delivered to a Trust pursuant to the Contracts may be fixed (*e.g.*, one Share per Security issued) or may be determined pursuant to a formula, the product of which will vary with the price of the Shares. A formula generally will result in each Holder of Securities receiving fewer Shares as the market value of the Shares increases, and more Shares as their market value decreases.[2] At the termination of each Trust, each Holder will receive the number of Shares per Security, or the value of the Shares, as determined by the terms of the Contracts, that is equal to the Holder's *pro rata* interest in the Shares or amount received by the Trust under the Contracts.[3]

4. Securities issued by the Trusts will be listed on a national securities exchange or traded on The Nasdaq National Market System. Thus, the Securities will be ''national market system'' securities subject to public price quotation and trade reporting requirements. After the Securities are issued, the trading price of the Securities is expected to vary from time to time based primarily upon the price of the underlying Shares, interest rates, and other factors affecting conditions and prices in the debt and equity markets. CIBC currently intends, but will not be obligated, to make a market in the Securities of each Trust.

5. Each Trust will be internally managed by three trustees and will not have a separate investment adviser. The trustees will have limited or no power to vary the investments held by each Trust. A bank qualified to serve as a trustee under the Trust Indenture Act of 1939, as amended, will act as custodian for each Trust's assets and as administrator, paying agent, registrar, and transfer agent with respect to the Securities of each Trust. The bank will have no other affiliation with, and will not be engaged in any other transaction with, any Trust. The day-to-day administration of each Trust will be carried out by CIBC or the bank.

6. The Trusts will be structured so that the trustees are not authorized to sell the Contracts or Treasuries under any circumstances or only upon the occurrence of certain events under a Contract. The Trusts will hold the Contracts until maturity or any earlier acceleration, at which time they will be settled according to their terms. However, in the event of the bankruptcy or insolvency of any counterparty to a Contract with a Trust, or the occurrence of certain other events provided for in the Contract, the obligations of the counterparty under the Contract may be accelerated and the available proceeds of the Contract will be distributed to the Holders.

7. The trustees of each Trust will be selected initially by CIBC, together with any other initial Holders, or by the grantors of the Trust. The Holders of each Trust will have the right, upon the declaration in writing or vote of more than two-thirds of the outstanding Securities of the Trust, to remove a trustee. Holders will be entitled to a full vote for each Security held on all matters to be voted on by Holders and will not be able to cumulate their votes in the election of trustees. The investment objectives and policies of each Trust may be changed only with the approval of a ''majority of the Trust's outstanding Securities'' [4] or any greater number required by the Trust's constituent documents. Unless Holders so request, it is not expected that the Trusts will hold any meetings of Holders, or that Holders will ever vote.

8. The Trusts will not be entitled to any rights with respect to the Shares until any Contracts requiring delivery of the Shares to the Trust are settled, at which time the Shares will be promptly distributed to Holders. The Holders, therefore, will not be entitled to any rights with respect to the Shares (including voting rights or the right to receive any dividends or other distributions) until receipt by them of the Shares at the time the Trust is liquidated.

9. Each Trust will be structured so that its organizational and ongoing expenses will not be borne by the Holders, but rather, directly or indirectly, by CIBC, the counterparties, or another third party, as will be described in the prospectus for the relevant Trust. At the time of the original issuance of the Securities of any Trust, there will be paid to each of the administrator, the custodian, and the paying agent, and to each trustee, a one-time amount in respect of such agent's fee over its term. Any expenses of the Trust in excess of this anticipated amount will be paid as incurred by a party other than the Trust itself (which party may be CIBC).

Applicant's Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A)(i) of the Act prohibits (i) any registered investment company from owning in the aggregate more than 3% of the total outstanding voting stock of any other investment company, and (ii) any investment company from owning in the aggregate more than 3% of the total outstanding voting stock of any registered investment company. A company that is excepted from the definition of investment company under section 3(c)(1) or (C)(7) of the Act is deemed to be an investment company for purposes of section 12(d)(1)(A)(i) of the Act under sections 3(c)(1) and (c)(7)(D) of the Act. Section 12(d)(1)(C) of the Act similarly prohibits any investment company, other investment companies having the same investment adviser, and companies controlled by such investment companies from owning more than 10% of the total outstanding voting stock of any closed-end investment company.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1), if, and to the extent that, the exemption is consistent with the public interest and protection of investors.

3. CIBC believes, in order for the Trusts to be marketed most successfully, and to be traded at a price that most accurately reflects their value, that it is necessary for the Securities of each Trust to be offered to large investment companies and investment company complexes. CIBC states that these investors seek to spread the fixed costs of analyzing specific investment opportunities by making sizable investments of those opportunities. Conversely, CIBC asserts that it may not

[2] A formula is likely to limit the Holder's participation in any appreciation of the underlying Shares, and it may, in some cases, limit the Holder's exposure to any depreciation in the underlying Shares. It is anticipated that the Holders will receive a yield greater than the ordinary dividend yield on the Shares at the time of the issuance of the Securities, which is intended to compensate Holders for the limit on the Holders' participation in any appreciation of the underlying Shares. In some cases, there may be an upper limit on the value of the Shares that a Holder will ultimately receive.

[3] The contracts may provide for an option on the part of a counterparty to deliver Shares, cash, or a combination of Shares and cash to the Trust at the termination of each Trust.

[4] A ''majority of the Trust's outstanding Securities'' means the lesser of (i) 67% of the Securities represented at a meeting at which more than 50% of the outstanding Securities are represented, and (ii) more than 50% of the outstanding Securities.

be economically rational for the investors, or their advisers, to take the time to review an investment opportunity if the amount that the investors would ultimately be permitted to purchase is immaterial in light of the total assets of the investment company or investment company complex. Therefore, CIBC argues that these investors should be able to acquire Securities in each Trust in excess of the limitations imposed by sections 12(d)(1)(A)(i) and 12(d)(1)(C). CIBC requests that the SEC issue an order under section 12(d)(1)(J) exempting the Trusts from the limitations.

4. CIBC states that section 12(d)(1) was designed to prevent one investment company from buying control of other investment companies and creating complicated pyramidal structures. CIBC also states that section 12(d)(1) was intended to address the layering of costs to investors.

5. CIBC believes that the concerns about pyramiding and undue influence generally do not arise in the case of the Trusts because neither the trustees nor the Holders will have the power to vary the investments held by each Trust or to acquire or dispose of the assets of the Trusts. To the extent that Holders can change the composition of the board of trustees or the fundamental policies of each Trust by vote, CIBC argues that any concerns regarding undue influence will be eliminated by a provision in the charter documents of the Trusts that will require any investment companies owning voting stock of any Trust in excess of the limits imposed by sections 12(d)(1)(A)(i) and 12(d)(1)(C) to vote their Securities in proportion to the votes of all other Holders. CIBC also believes that the concern about undue influence through a threat to redeem does not arise in the case of the Trusts because the Securities will not be redeemable.

6. Section 12(d)(1) also was designed to address the excessive costs and fees that may result from multiple layers of investment companies. CIBC believes that these concerns do not arise in the case of the Trusts because of the limited ongoing fees and expenses incurred by the Trusts and because generally these fees and expenses will be borne, directly or indirectly, by CIBC or another third party, not by the Holders. In addition, the Holders will not, as a practical matter, bear the organizational expenses (including underwriting expenses) of the Trusts. CIBC asserts that the organizational expenses effectively will be borne by the counterparties in the form of a discount in the price paid to them for the Contracts, or will be borne directly by CIBC, the counterparties, or other third parties. Thus, a Holder will not pay duplicative charges to purchase securities in any Trust. Finally, there will be no duplication of advisory fees because the Trusts will be internally managed by their trustees.

7. CIBC believes that the investment product offered by the Trusts serves a valid business purpose. The Trusts, unlike most registered investment companies, are not marketed to provide investors with either professional investment asset management or the benefits of investment in a diversified pool of assets. Rather, CIBC asserts that the Securities are intended to provide Holders with an investment having unique payment and risk characteristics, including an anticipated higher current yield than the ordinary dividend yield on the Shares at the time of the issuance of the Securities.

8. CIBC believes that the purposes and policies of section 12(d)(1) are not implicated by the Trusts and that the requested exemption from section 12(d)(1) is consistent with the public interest and the protection of investors.

B. Section 14(a)

1. Section 14(a) of the Act requires, in pertinent part, that an investment company have a net worth of at least $100,000 before making any public offering of its shares. The purpose of section 14(a) is to ensure that investment companies are adequately capitalized prior to or simultaneously with the sale of their securities to the public. Rule 14a–3 exempts from section 14(a) unit investment trusts that meet certain conditions in recognition of the fact that, once the units are sold, a unit investment trust requires much less commitment on the part of the sponsor than does a management investment company. Rule 14a–3 provides that a unit investment trust investing in eligible trust securities shall be exempt from the net worth requirement, provided that the trust holds at least $100,000 of eligible trust securities at the commencement of a public offering.

2. CIBC argues that, while the Trusts are classified as management companies, they have the characteristics of unit investment trusts. Investors in the Trusts, like investors in a unit investment trust, will not be purchasing interests in a managed pool of securities, but rather in a fixed and disclosed portfolio that is held until maturity. CIBC believes that the make-up of each Trust's assets, therefore, will be ''locked-in'' for the life of the portfolio, and there is no need for an ongoing commitment on the part of the underwriter.

3. CIBC states that, in order to ensure that each Trust will become a going concern, the Securities of each Trust will be publicly offered in a firm commitment underwriting, registered under the Securities Act of 1933, resulting in net proceeds to each Trust of at least $10,000,000. Prior to the issuance and delivery of the Securities of each Trust to the underwriters, the underwriters will enter into an underwriting agreement pursuant to which they will agree to purchase the Securities subject to customery conditions to closing. The underwriters will not be entitled to purchase less than all of the Securities of each Trust. Accordingly, CIBC states that either the offering will not be completed at all or each Trust will have a net worth substantially in excess of $100,000 on the date of the issuance of the Securities. CIBC also does not anticipate that the net worth of the Trusts will fall below $100,000 before they are terminated.

4. Section 6(c) of the Act provides that the SEC may exempt persons or transactions if, and to the extent that, the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. CIBC requests that the SEC issue an order under section 6(c) exempting the Trusts from the requirements of section 14(a). CIBC believes that the exemption is appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the Act.

C. Section 17(a)

1. Sections 17(a) (1) and (2) of the Act generally prohibit the principal underwriter, or any affiliated person of the principal underwriter, of a registered investment company from selling or purchasing any securities to or from that investment company. The result of these provisions is to preclude the Trusts from purchasing Treasuries from CIBC.

2. Section 17(b) of the Act provides that the SEC shall exempt a propsed transaction from section 17(g) if evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company involved and the purposes of the Act. CIBC requests an exemption from sections 17(a)(1) and (2) to permit the Trusts to purchase Treasuries from CIBC.

3. CIBC states that the policy rationale underlying section 17(a) is the concern that an affiliated person of an investment company, by virtue of this relationship, could cause the investment company to purchase securities of poor quality from the affiliated person or to overpay for securities. CIBC argues that it is unlikely that it would be able to exercise any adverse influence over the Trusts with respect to purchases of Treasuries because Treasuries do not vary in quality and are traded in one of the most liquid markets in the world. Treasuries are available through both primary and secondary dealers, making the Treasury market very competitive. In addition, market prices on Treasuries can be confirmed on a number of commercially available information screens. CIBC argues that because it is one of a limited number of primary dealers in Treasuries, it will be able to offer the Trusts prompt execution of their Treasury purchases at very competitive prices.

4. CIBC states that it is only seeking relief from section 17(a) with respect to the initial purchase of the Treasuries and not with respect to an ongoing course of business. Consequently, investors will know before they purchase a Trust's Securities the Treasuries that will be owned by the Trust and the amount of the cash payments that will be provided periodically by the Treasuries to the Trust and distributed to Holders. CIBC also asserts that whatever risk there is of overpricing the Treasuries will be borne by the counterparties and not by the Holders because the cost of the Treasuries will be calculated into the amount paid on the Contracts. CIBC argues that, for this reason, the counterparties will have a strong incentive to monitor the price paid for the Treasuries, because any overpayment could result in a reduction in the amount that they would be paid on the Contracts.

5. CIBC believes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person, that the proposed transaction is consistent with the policy of each of the Trusts, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policies and provisions of the Act.

Applicant's Conditions

CIBC agrees that the order granting the requested relief will be subject to the following conditions:

1. Any investment company owning voting stock of any Trust in excess of the limits imposed by section 12(d)(1) of the Act will be required by the Trust's charter documents, or will undertake, to vote its Trust shares in proportion to the vote of all other Holders.

2. The trustees of each Trust, including a majority of the trustees who are not interested persons of the Trust, (1) will adopt procedures that are reasonably designed to provide that the conditions set forth below have been complied with; (ii) will make and approve such changes as are deemed necessary; and (iii) will determine that the transactions made pursuant to the order were effected in compliance with such procedures.

3. The Trusts (i) will maintain and preserve in an easily accessible place a written copy of the procedures (and any modifications to the procedures), and (ii) will maintain and preserve for the longer of (a) the life of the Trusts and (b) six years following the purchase of any Treasuries, the first two years in an easily accessible place, a written record of all Treasuries purchased, whether or not from CIBC, setting forth a description of the Treasuries purchased, the identity of the seller, the terms of the purchase, and the information or materials upon which the determinations described below were made.

4. The Treasuries to be purchased by each Trust will be sufficient to provide payments to Holders of Securities that are consistent with the investment objectives and policies of the Trust as recited in the Trust's registration statement and will be consistent with the interests of the Trust and the Holders of its Securities.

5. The terms of the transactions will be reasonable and fair to the Holders of the Securities issued by each Trust and will not involve overreaching of the Trust or the Holders of Securities of the Trust on the part of any person concerned.

6. The fee, spread, or other remuneration to be received by CIBC will be reasonable and fair compared to the fee, spread, or other remuneration received by dealers in connection with comparable transactions at such time, and will comply with section 17(e)(2)(C) of the Act.

7. Before any Treasuries are purchased by the Trust, the Trust must obtain such available market information as it deems necessary to determine that the price to be paid for, and the terms of, the transaction are at least as favorable as that available from other sources. This will include the Trust obtaining and documenting the competitive indications with respect to the specific proposed transaction from two other independent government securities dealers. Competitive quotation information must include price and settlement terms. These dealers must be those who, in the experience of the Trust's trustees, have demonstrated the consistent ability to provide professional execution of Treasury transactions at competitive market prices. They also must be those who are in a position to quote favorable prices.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–21593 Filed 8–11–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23381, 812–10990]

Morgan Stanley, Dean Witter, Discover & Co., et al.; Notice of Application

August 6, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under (a) sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') requesting an exemption from section 17(a) of the Act; (b) section 6(c) of the Act requesting an exemption from section 17(e) of the Act and rule 17e–1 under the Act; and (c) section 10(f) of the Act requesting an exemption from section 10(f) and rule 10f–3 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit registered open-end investment companies that have one or more investment advisers and for which Morgan Stanley Asset Management (''MSAM'') or Miller, Anderson & Sherred, LLP (''MA&S'') acts as an investment adviser, to engage in certain principal and brokerage transactions with Morgan Stanley, Dean Witter, Discover & Co. (''MSDWD'') and to purchase securities in certain underwritings. The transactions would be between MSDWD, or a member of an underwriting syndicate in which MSDWD is a participant, and those portions of the investment companies' portfolios that are not advised by MSAM or MA&S. The order also would permit the investment companies not to aggregate certain purchases from an underwriting syndicate in which MSDWD is a principal underwriter.

APPLICANTS: AMR Investment Services Trust (''AMR Trust''), Variable Annuity Portfolios, MSDWD, MSAM, and MA&S.

FILING DATE: The application was filed on February 3, 1998. Applicants have ageeed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 31, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: AMR Trust, 4333 Amon Carter Blvd., MD 5645, Fort Worth, Texas 76155; Variable Annuity Portfolios, 21 Milk Street, 5th Floor, Boston, Massachusetts 02109; MSDWD, 1585 Broadway, New York, New York 10036; MSAM, 1221 Avenue of the Americas, New York, New York 10020; and MA&S, One Tower Bridge, West Conshohocken, Pennsylvania 19428.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. MSDWD is registered as a broker-dealer under the Securities Exchange Act of 1934 and as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). MSAM and MA&S are controlled by MSDWD and are registered as investment advisers under the Advisers Act.

2. AMR Trust and Variable Annuity Portfolios are open-end investment companies registered under the Act and each consists of several portfolios. AMR Trust is advised by AMR Investment Services, Inc. and is a ''master fund'' with several feeder funds. Variable Annuity Portfolios is advised by Citibank, N.A. MSAM currently serves as a subadviser to a portion of one portfolio of AMR Trust and MA&S currently serves as a subadviser to a portion of several portfolios of the Variable Annuity Portfolios, each of which are otherwise unaffiliated with MSAM, MA&S, or MSDWD (the ''Portfolios''). In each case, the other portions are advised by investment subadvisers (''Subadvisers'') that are not affiliated persons, or affiliated persons of an affiliated person, of MSDWD (each, an ''Unaffiliated Subadviser,'' and each portion, an ''Unaffiliated Portion'').[1]

3. Applicants request that the relief apply to any registered open-end investment company for which MSAM, MA&S, or any entity controlled by, controlling, or under common control with MSDWD now or in the future acts as investment adviser (collectively with MSAM and MA&S, ''MSDWD Advisers'').[2] Applicants also request relief for any broker-dealer controlling, controlled by, or under common control with MSDWD (collectively with MSDWD, ''Affiliated Broker-Dealers'').

4. The Portfolios use a multi-manager structure in which separate Subadvisers, including MSDWD Advisers, are used to manage discrete portions of the Portfolio. Each Subadviser acts as if it were managing a separate investment company. The Subadvisers do not collaborate, and each is responsible for making independent investment and brokerage allocation decisions for its portion based on its own research and analysis. The Subadvisers do not receive information about investment or brokerage allocation decisions of another portion of the Portfolio before they are implemented. Each Subadviser is compensated based only on a percentage of the value of the Portfolio's assets allocated to it. Applicants state that MSDWD does not and will not control any Portfolio for which an MSDWD Adviser acts as Subadviser.

5. Applicants request relief to permit (a) Unaffiliated Portions to engage in principal transactions with Affiliated Broker-Dealers and to purchase securities in an underwriting in which an Affiliated Broker-Dealer acts as a principal underwriter. (b) Unaffiliated Portions to engage in brokerage transactions with Affiliated Broker-Dealers, when the Affiliated Broker-Dealer acts as broker in the ordinary course of business, without complying with subsections (b) and (c) of rule 17e-1 under the Act, and (c) portions of Portfolios advised by an MSDWD Adviser (''Affiliated Portions'') to purchase securities in an underwriting without aggregating that Portion's purchase with purchases of Unaffiliated Portions as required by rule 10f-3(b)(7) under the Act.

Applicants' Legal Analysis

A. Principal Transactions Between Unaffiliated Portions and Affiliated Broker-Dealers

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person, or an affiliated person of an affiliated person, of the company. Sections 2(a)(3)(C) and (E) of the Act define an ''affiliated person'' of another person to be any person controlling, controlled by, or under control with the person, and any investment adviser of an investment company, respectively. Applicants believe that an MSDWD Adviser acting as a Subadviser of a Portfolio would be an affiliated person of that Portfolio, and each Affiliated Broker-Dealer would be an affiliated person of the MSDWD Adviser and as affiliated person of an affiliated person (''second-tier affiliate'') of the Portfolio. As a result, applicants believe that any principal transaction between an Unaffiliated Portion and an Affiliated Broker-Dealer would be prohibited by section 17(a).

2. Applicants request relief from section 17(a) to permit principal transactions entered into in the ordinary course of business between the Unaffiliated Portion and an Affiliated Broker-Dealer. Applicants state that the relief would apply only when an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of a Portfolio solely because an MSDWD Adviser is the subadviser to another portion of the same Portfolio.

3. Section 6(c) permits the SEC to exempt any person or transaction from

[1] The term *Unaffiliated Subadviser* includes investment advisers that manage discrete portions of multi-managed Portfolios, whether or not the Portfolios have a primary adviser that is responsible for the overall investment performance of the fund and monitoring the Subadvisers. In addition, the term includes a primary adviser to the extent the primary adviser is responsible for a portion of a multi-managed Portfolio.

[2] All registered open-end investment companies that currently intend to rely on the order are named as applicants. Any other existing or future registered open-end investment company that relies on the order will comply with the terms and conditions of the application. Any registered open-end investment company for which an MSDWD Adviser may act as investment adviser is also a ''Portfolio.''

any provision of the Act, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. Section 17(b) permits the SEC to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act. For the reasons stated below, applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).

4. Applicants contend that section 17(a) is intended to prevent persons who have the power to influence an investment company from using that influence to their own pecuniary advantage. Applicants assert that when a person acting on behalf of an investment company has no direct or indirect pecuniary interest in a party to a principal transaction, then the abuses that section 17(a) was designed to prevent are not present.

5. Applicants assert that each Subadviser's contract assigns it responsibility to manage a discrete portion of the Portfolio. Each Subadviser is responsible for making independent investment and brokerage allocation decisions based on its own research and credit evaluations. Applicants state that no MSDWD Adviser will serve as Subadviser to any Portfolio where the primary adviser to the Portfolio dictates or influences brokerage allocation or investment decisions, or has the contractual right to do so. Applicants submit that in managing a discrete portion of a Portfolio, each Subadviser acts for all practical purposes as though it is managing a separate investment company. Further, applicants state that, for each transaction for which relief is requested, the Unaffiliated Subadviser would be dealing with an Affiliated Broker-Dealer that is a competitor of that Subadviser. Applicants believe therefore, that each transaction would be the product of arm's length bargaining.

6. Applicants state that the proposed transactions will be consistent with the policies of the Portfolio, since each Unaffiliated Subadviser is required to manage the Unaffiliated Portion of the Portfolio in accordance with the investment objectives and related investment policies of the Portfolio as described in its registration statement. Applicants also assert that permitting the transactions will be consistent with the general purposes of the act and in the public interest because the ability to engage in the transactions will increase the likelihood of a Portfolio achieving best price and execution on its principal transactions while giving rise to none of the abuses that section 17(a) was designed to prevent.

B. Payment of Brokerage Compensation by Unaffiliated Portions to Affiliated Broker-Dealers

1. Section 17(e)(2) of the Act prohibits an affiliated person or a second-tier affiliate of a registered investment company from receiving compensation for acting as broker in connection with the sale of securities to or by the company if the compensation exceeds the limits prescribed by the section unless otherwise permitted by rule 17e–1 under the Act. Rule 17e–1(a) provides that brokerage compensation paid pursuant to the rule must be reasonable and fair compared with compensation paid in comparable transactions. Rule 17e–1(b) requires the investment company's board of directors, including a majority of the directors who are not interested persons under section 2(a)(19) of the act, to adopt procedures regarding brokerage compensation paid pursuant to the rule and to determine at least quarterly that all transactions effected in reliance on the rule complied with the procedures. Rule 17e-1(c) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e-1.

2. Applicants state that, for the reasons discussed above, Affiliated Broker-Dealers are second-tier affiliates of the Unaffiliated Portions and thus subject to section 17(e). Applicants request an exemption under section 6(c) from the provisions of section 17(e) and rule 17e–1 to the extent necessary to permit the Unaffiliated Portions to pay brokerage compensation to Affiliated Broker-Dealers, when the Affiliated Broker-Dealer acts as broker in the ordinary course of business, without complying with the requirements of rule 173–1(b) and (c). Applicants believe that the proposed brokerage transactions meet the standards of section (c) of the Act for the same reasons that the proposed principal transactions satisfy the standards. In addition, applicants state that the brokerage transactions will comply with the requirement of rule 17e–1(a) that the brokerage compensation be fair and reasonable. Applicants also note that the Unaffiliated Subadvisers will be subject to a fiduciary duty to obtain best execution for the Unaffiliated Portion. Applicants thus believe that an exemption from the requirements of rule 17e–1(b) and (c) would be appropriate.

C. Purchases of Certain Securities by Unaffiliated Portions

1. Section 10(f) of the Act, in relevant part, prohibits a registered investment company from knowingly purchasing or otherwise acquiring during the existence of any underwriting or selling syndicate, any security (except a security of which the company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of the company, or an affiliated person of any of the foregoing. Section 10(f) also provides that the SEC may exempt by order any transaction or classes of transactions from any of the provisions of section 10(f), if and to the extent that such exemption is consistent with the protection of investors. Rule 10f–3 exempts certain transactions from the prohibitions of section 10(f) if specified conditions are met. Paragraph (b)(7) of rule 10f–3 provides that the amount of securities of any class of an issue to be purchased by the investment company, or by two or more investment companies having the same investment adviser, shall not exceed certain percentages specified in the rule.

2. Applicants state that when an MSDWD Adviser acts as a Subadviser to a Portfolio, it is considered to be an investment adviser to the entire Portfolio. Applicants therefore believe that all purchases of securities by an Unaffiliated Portion from an underwriting syndicate a principal underwriter of which is an Affiliated Broker-Dealer would be subject to section 10(f).

3. Applicants request relief under section 10(f) from that section to permit Unaffiliated Portions to purchase securities during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Broker-Dealer. In addition, in the event an Affiliated Portion purchases securities in reliance on rule 10f–3, applicants request an exemption under section 10(f) from rule 10f–3 so that an MSDWD Adviser will not be required to aggregate those purchases with any purchases of the same security by Unaffiliated Portions. Applicants request relief only to the extent that section 10(f) applies because an MSDWD Adviser is an investment adviser to the Portfolio. Applicants believe that the proposed transactions meet the standards set forth in section 10(f).

4. Applicants state that section 10(f) was adopted in response to concerns about the ''dumping'' of otherwise unmarketable securities on investment companies, either by forcing the investment company to purchase unmarketable securities from its underwriting affiliate, or by forcing or encouraging the investment company to purchase the securities from another member of the syndicate. Applicants submit that these abuses are not present in the context of the Portfolios because, as discussed above, a decision by a Subadviser to one discrete portion of a Portfolio to purchase securities from an underwriting syndicate, a principal underwriter of which is an affiliated person of a Subadviser to a different portion of the same Portfolio, involves no potential for ''dumping.'' In addition, applicants assert that aggregating purchases would serve no purpose because any common purchases would be coincidence, and not the result of a decision by a single Subadviser, because there is no collaboration among Subadvisers.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. Each Portfolio will be advised by a MSDWD Adviser and at least one Unaffiliated Subadviser and will be operated consistent with the manner described in the application.

2. Neither the MSDWD Adviser (except by virtue of serving as Subadviser) nor the Affiliated Broker-Dealer will be an affiliated person or a second-tier affiliate of any Unaffiliated Subadviser or any officer, trustee or employee of the Portfolio engaging in the transaction.

3. No MSDWD Adviser will directly or indirectly consult with any unaffiliated Subadviser concerning allocation of principal or brokerage transactions.

4. No. MSDWD Adviser will participate in any arrangement under which the amount of its subadvisory fees will be affected by the investment performance of an Unaffiliated Subadviser.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–21594 Filed 8–11–98; 8:45 am]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement for Addition of Electric Generation Peaking Capacity

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) will prepare an environmental impact statement (EIS) for the proposed addition of peaking capacity to the TVA electric generation system. The EIS will evaluate the potential environmental impacts of installing and operating proposed simple cycle natural gas fired combustion turbines to provide the needed peaking capacity. TVA wants to use the EIS process to obtain the public's comments on this proposal.

DATES: Comments on the scope of the EIS must be postmarked no later than September 11, 1998. TVA will conduct public meetings on the scope of the EIS. The locations and times of these meetings are announced below.

ADDRESSES: Written comments should be sent to Greg Askew, P.E., Senior Specialist, National Environmental Policy Act, Tennessee Valley Authority, mail stop WT 8C, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499. Comments may also be e-mailed to gaskew@tva.gov.

FOR FURTHER INFORMATION CONTACT: Roy V. Carter, P.E., EIS Project Manager, Environmental Research Center, Tennessee Valley Authority, mail stop CEB 4C, Muscle Shoals, Alabama 35662–1010. E-mail may be sent to rvcarter@tva.gov.

SUPPLEMENTARY INFORMATION:

Project Description

Construction and operation of simple cycle natural gas-fired combustion turbine units are proposed by TVA to meet up to 1,350 MW of peaking requirements with some capacity available as early as June 2000. Up to eight natural gas-fired combustion turbines would be installed at one, two or three existing TVA power plant sites.

The three TVA power plant sites under consideration are Johnsonville Fossil Plant in Humphreys County, Tennessee; Gallatin Fossil Plant in Sumner County, Tennessee; and Colbert Fossil Plant in Colbert County, Alabama. Each of these TVA plant sites have both coal-fired units and natural gas and/or fuel oil fired combustion turbines. These TVA plant sites offer potential advantages over greenfield sites. These advantages include use of existing plant infrastructure (water service, natural gas supply at two sites, transmission line access, combustion turbine maintenance and operating staff), existing land ownership, and an accelerated project schedule with reduced risk. Also, inherent in incremental development of industrial sites such as these is the potential for reduced environmental impacts.

Each site installation would consist of up to eight natural gas fired combustion turbine-generators. Fuel oil would be the secondary fuel. These combustion turbines would employ dry low-NO_x combustion chambers and/or water injection for NO_x control. Typical manufacturers and models of simple cycle combustion turbines for the proposed application are General Electric models GE 7001 EA and GE 7001 FA, and Westinghouse models WH 501D5A and WH 501 FA Other appurtenances and ancillary equipment would include step-up transformers for 161 kilovolt or 500 kilovolt service, transmission line connection equipment, demineralized water to supply the water injection NO_x control systems, and maintenance and operational support buildings or equipment.

Other actions necessary for operation of combustion turbines at the Colbert site would include one or more natural gas pipeline taps and conveyances.

TVA's Integrated Resource Plan

This EIS will tier from TVA's *Energy Vision 2020'An Integrated Resource Plan and Final Programmatic Environmental Impact Statement. Energy Vision 2020* was completed in December 1995 and a Record of Decision issued on February 28, 1996. Energy Vision 2020 analyzed a full range of supply-side and demand-side options to meet customer energy needs. These options were ranked using several criteria including environmental performance. Favorable options were formulated into strategies to effectively meet electric energy and peak capacity needs of TVA's customers for a range of postulated futures. A portfolio of options drawn from several robust strategies was chosen as TVA's preferred alternative. In this preferred alternative, three supply-side options selected to meet peak capacity needs were: (1) addition of combustion turbines to TVA's generation system, (2) purchase of market peaking capacity, and (3) call options on peaking capacity. The short-term action plan of *Energy Vision 2020* identified a need for 3,000 MW of baseload and peaking additions through the year 2002.

Because Energy Vision 2020 identified and evaluated alternative supply-side and demand-side energy

resources and technologies for meeting peak capacity needs, this EIS will not reevaluate those alternatives. This EIS will focus on the site-specific impacts of constructing and operating additional TVA combustion turbines at three candidate sites.

Proposed Issues To Be Addressed

The EIS will describe the existing environmental and socioeconomic resources at each of the three sites that may be potentially affected by construction and operation of natural gas-fired combustion turbines. TVA's evaluation of potential environmental impacts to these resources will include, but not necessarily be limited to the impacts on air quality, water quality, aquatic and terrestrial ecology, endangered and threatened species, wetlands, aesthetics and visual resources, noise, land use, historic and archaeological resources, and socioeconomic resources. Because the proposed projects would be located on previously disturbed property at operating TVA power plant sites, the on-site issues of terrestrial wildlife, habitat, and vegetation; aesthetics and visual resources; land use conversion; and historic and archaeological resources are not likely to be important. Also, the proposed units would have no process wastewater discharge and will require no new water supply source, thus impacts to aquatic ecology are unlikely.

Alternatives

The results of evaluating the potential environmental impacts related to these issues and other important issues identified in the scoping process together with engineering and economic considerations will be used in selecting a preferred alternative. At this time, TVA has identified the following alternatives for detailed evaluation: (1) a single site alternative, (2) alternatives employing two of the three sites, (3) an alternative employing all three sites, and (4) no action.

Scoping Process

Scoping, which is integral to the NEPA process, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. TVA's NEPA procedures require that the scoping process commence after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The scope of issues to be addressed in the draft EIS will be determined, in part, from written comments submitted by mail or e-mail, and comments presented orally or in writing at public meetings. The preliminary identification in this notice of reasonable alternatives and environmental issues is not meant to be exhaustive or final.

The scoping process will include both interagency and public scoping. The public is invited to submit written comments or e-mail comments on the scope of this EIS no later than the date given under the DATES section of this notice and/or attend the public scoping meetings. TVA will conduct three public scoping meetings using an open house format. At each meeting, TVA staff will be present to discuss the project proposals and the environmental issues, and to receive both oral and written comments. The meeting locations and schedule are as follows: Monday, August 31, Gallatin Civic Center, 210 Albert Gallatin Road, Gallatin, Tennessee; Tuesday, September 1, Humphreys County Board of Education Building, 2443 Highway 70 East, Waverly, Tennessee; Thursday, September 3, Lions Club Building, Corner of Church and First Streets, Cherokee, Alabama. The times for all three open house meetings are 4:00 p.m. to 9:00 p.m.

The agencies to be included in the interagency scoping are U.S. Fish and Wildlife Service, Tennessee Department of Conservation and Environment, the Tennessee State Historic Preservation Officer, and other agencies as appropriate.

Upon consideration of the scoping comments, TVA will develop alternatives and identify important environmental issues to be addressed in the EIS. Following analysis of the environmental consequences of each alternative, TVA will prepare a draft EIS for public review and comment. Notice of availability of the draft EIS will be published by the Environmental Protection Agency in the **Federal Register**. TVA will solicit written comments on the draft EIS, and information about possible public meetings to comment on the draft EIS will be announced. TVA expects to release a final EIS in May 1999.

Dated: August 6, 1998.

Kathryn J. Jackson,

Executive Vice President, Resource Group.

[FR Doc. 98–21580 Filed 8–11–98; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–117]

Extension of Section 301 Investigation: Intellectual Property Laws and Practices of the Government of Paraguay

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) has determined to extend the investigation of the acts, policies and practices of the Government of Paraguay that deny adequate and effective protection of intellectual property rights.

DATES: The USTR made this determination on Tuesday, August 4, 1998.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director for Intellectual Property, (202) 395–6864; Kellie Meiman, Director for Mercosur and the Southern Cone, (202) 395–5190; or Geralyn S. Ritter, Assistant General Counsel, (202) 395–6800.

SUPPLEMENTARY INFORMATION: On January 16, 1998, the USTR identified Paraguay as a Priority Foreign Country under the ''Special 301'' provisions of the Trade Act of 1974, as amended (19 U.S.C. 2242). In identifying Paraguay as a Priorty Foreign Country, the USTR noted deficiencies in Paraguay's acts, policies and practices regarding intellectual property, including a lack of effective action to enforce intellectual property rights. The USTR also observed that the Government of Paraguay has failed to enact adequate and effective intellectual property legislation covering patents, copyrights and trademarks. As required under Section 302(b)(2)(A) of the Trade Act (19 U.S.C. 2412(b)(2)(A)), an investigation of these acts, policies and practices was initiated on February 17, 1998.

Extension of Investigation

Numerous bilateral negotiations have been held on these issues since the initiation of this investigation. Although Paraguay has indicated that it will take a number of actions to improve protection for intellectual property and, in particular, to strengthen the enforcement of intellectual property rights, significant progress on a majority of U.S. concerns has not occurred. These issues are too complex and complicated to resolve before the end of

the six-month statutory deadline for concluding this investigation. USTR will look to the new government taking office in Paraguay in mid-August to move quickly to address the continuing serious deficiencies in Paraguay's intellectual property regime.

In light of the need for further time for negotiations to resolve these remaining issues, the USTR has determined pursuant to section 304(a)(3)(B)(i) of the Trade Act, that ''complex or complicated issues are involved in the investigation that require additional time.'' The USTR has therefore extended this investigation, and will make a final determination by November 17, 1998.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 98–21641 Filed 8–11–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Federal Aviation Administration

[Docket No. 29303]

Policy Regarding Airport Rates and Charges

AGENCY: Departmen of Transportation, Office of the Secretary, and Federal Aviation Administration.

ACTION: Advance notice of proposed policy, request for comments.

SUMMARY: This document requests suggestions for replacement provisions for the portions of the Department of Transportation's Policy Regarding Airport Rates and Charges (Policy Statement) issued June 21, 1996 and vacated by the United States Court of Appeals for the District of Columbia Circuit. The Department is beginning this proceeding in order to carry out its responsibility to establish reasonableness guidelines for airport fees.

DATES: Comments must be submitted on or before October 13, 1998. Reply comments will be accepted and must be submitted on or before October 26, 1998. Late filed comments will be considered to the extent possible.

ADDRESSES: Comments on this notice must be delivered or mailed, in quadruplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 29303, 800 Independence Ave., SW, Room 915G, Washington, DC 20591. All comments must be marked ''Docket No. 29303.'' Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. . The postcard will be date stamped and mailed to the commenter.

Comments on this Notice may be delivered or examined in room 915G on weekdays, except on Federal holidays between 8:30 am and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Molar, Manager (AAS–400), (202) 267–3187 or Mr. Wayne Heibeck (AAS–400), Compliance Specialist, (202) 267–8726, Airport Compliance Division, Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1996, Office of the Secretary and the Federal Aviation Administration (together, the ''Department'' of Transportation or ''Department'') issued a Policy Statement (61 FR 31994 *et seq.*) on the fees charged by airports to air carriers and other aeronautical users. This Policy Statement responded to 49 U.S.C. 47129(b), which requires the Secretary to publish standards or guidelines to be used in determining whether an airport fee is reasonable in disputes between airports and airlines. (Section 113 of the Federal Aviation Administration Authorization Act of 1994, Public Law No. 103–305).

The Policy Statement reflected industry practice at commercial service airports of establishing fees for the use of airfields (*e.g.*, runways and taxiways) and public-use roadways on the basis of the airport operator's costs, using historic cost valuation (HCA requirement). This cost-based approach allowed airports to recover out-of-pocket costs and permitted airfield fees to include as a cost imputed interest on airport operator funds invested in the airfield, except funds obtained from airfield fees.

Recognizing that fees for other aeronautical facilities (*e.g.*, hangars and terminals) were often established through direct negotiations with individual users, the Department adopted a more flexible approach to nonairfield fees. The Department permitted these fees to be set by any reasonable methodology, including, among others, appraised fair market value. Among the factors it considered to support the disparate treatment, the Department found that airports had not exercised monopoly power in pricing these facilities and that state and local governments operate airports to provide aeronautical services for their communities to benefit their residents and improve the local economic base, not to generate revenue surpluses.

The Policy Statement modified the approach taken in the February 3, 1995 Interim Policy on determining the reasonableness of fees for nonairfield facilities. (Under the Interim Policy, airfield and nonairfield fees were considered reasonable only when capped at historical cost). The Policy Statement also discussed: the Department's preference for direct local negotiation between airport proprietors and users; the prohibition on unjustly discriminatory fees; the obligation to maintain a fee and rental structure that makes the airport as self-sustaining as possible under the circumstances at the airport; and the prohibition against unlawful diversion of airport revenues.

Both the Air Transport Association (ATA) and the City of Los Angles sought judicial review of the policy Statement. The ATA challenged the Department's approach to determining reasonable nonairfield fees and the decision to permit airfield fees to include any imputed interest charge. The City of Los Angeles challenged the HCA requirement for airfield fees.

The United States Court of Appeals for the District of Columbia Circuit vacated and remanded portions of the Policy Statement setting forth guidance on fair and reasonable airfield and nonairfield fees. *Air Transport Association of America* v. *Department of Transportation (ATA v. DOT)*, 119 F.3d 38 (D.C. Cir. 1997), as modified on rehearing, Order of Oct. 15, 1997. Specifically, the court vacated:

> paragraphs 2.4, 2.4.1, 2.4.1(a), 2.5.1, 2.5.1(a), 2.5.1(b), 2.5.1(c), 2.5.1(d), 2.5.1(e), 2.5.3, 2.5.3(a), 2.6, the Secretary's supporting discussion in the preamble, and any other portions of the rule *necessarily* implicated by the holding of [the August 1, 1997 opinion].

The court's opinion found fault with the Department's distinction between the airfield, on the one hand, and nonairfield facilities, on the other hand, with respect to the reasonableness of fees. The court believed the Department should have explained its fees policy in light of the economics of airport behavior and had failed to justify the distinction between airfield and nonairfield fees. The court also questioned the Department's justification for the disparate treatment of imputed interest charges.

On November 25, 1997, the Airports Council International-North America (ACI) and the American Association of Airport Executives (AAAE) filed a

Petition for Rulemaking proposing revisions of the Policy Statement (Docket No. OST–97–3158). The ACI/AAAE would have the Department permit airport proprietors to value airfield assets at an amount greater than historic cost (but no higher than a competitive market-based fair market value) and would permit an airport proprietor to charge imputed interest on aeronautical fees invested in aeronautical facilities. It would also permit an airport proprietor to charge current costs for airfield facilities (in addition to non-airfield facilities) not currently in use.

In support of its petition, the ACI/AAAE explained that it is the longstanding practice at many commercial service airports to charge fair market value for exclusive-use assets and to value airfield assets on the basis of historical cost. They asserted that their proposal would not necessarily change industry practice.

With regard to monopoly power, the ACI/AAAE disputed the claim that airports behave like monopolists and did not believe it necessary to hold all aeronautical fees to cost-of-service levels. Capping the fees at competitive market rates (as opposed to above-competitive market rate) would, in any event, prevent any monopolistic abuses, according to ACI/AAAE. Additionally, ACI/AAAE explained that airport proprietors engage in competition in order to maintain existing service and attract new air carriers. Further, the prohibition against unlawful airport revenue diversion acts as a check to monopolistic charging, according to these airport industry organizations. Airports compete to be gateways to domestic and international geographic regions, also. It is airlines that have market power in many city-pair markets, not airports, according to ACI/AAAE. Airlines wield power at airports through majority-in-interest clauses that provide veto power over construction or other capital projects.

ACI/AAAE also requested revisions to portions of the Policy Statement not vacated by the D.C. Circuit Court of Appeals. They proposed that the Department base its review of the reasonableness of airport fees on written submissions, rather than on a *de novo* review. They also proposed language that the Policy Statement and the expedited procedures created by 49 U.S.C. 47129 should not be applied to fees charged to signatories to an agreement.

On March 12, 1998, the ATA filed a Petition for Rulemaking proposing revisions to the Policy Statement. The ATA would have the Department reinstate the approach taken in the Interim Policy and require all aeronautical fees to be based on HCA valuation of assets. The result of this requirement would in turn be to reinstate the HCA cap on total aeronautical revenues, according to the ATA. In addition, the ATA would have the policy bar imputed interest in aeronautical charges, or at most permit imputed interest only on funds derived from nonaeronautical users. Finally, the ATA would have the Department reinstate the prohibition on charges for facilities not in use and apply that prohibition to all aeronautical charges.

In support of its request on the first two issues, ATA asserts that its proposal would address the concerns expressed by the Court of Appeals over the disparate treatment of airfield and nonairfield fees. In addition, the ATA argues that the proposal on asset valuation and imputed interest is not precluded by the court's opinion, which faulted the Department for lack of adequate justification. The ATA further argues that its approach is supported by the Department's recent determination on remand in the *Los Angeles International Airport (''LAX'') Rates Proceeding*, DOT Order 97–12–31 (December 23, 1997), and that the Department's rationales in that decision apply nationwide.

On the third issue, the ATA argues that the court vacated the prohibition on charging for facilities not in use only because the prohibition was limited to the airfield. The ATA argues that because the basic premise and reasoning for the prohibition were not challenged before the court, the ACI/AAAE should not be permitted to reopen the issue, especially when the ACI/AAAE have offered no persuasive reason to reject the Department's rationale for the prohibition.

Request for Comments

As a first step in responding to the court's decision, the Department is soliciting suggestions for appropriate replacement provisions for the portion of the Policy Statement vacated by the court. In addition, more information on the nature of specific airport fee practices and analysis of the economics of airport behavior are necessary before the Department proposes new fee guidelines.

The Department anticipates that these comments will be candid, will accurately reflect current industry practices, and will suggest procedures that can be implemented without undue disruption to the industry. We hope that both the air carriers and the airports will be able to provide us with the same type of information, from each party's perspective. This request for comment is limited to the provisions in the Policy Statement that the District of Columbia Circuit Court of Appeals vacated. These are the provisions subjected to the remand proceeding. Accordingly, the Department is not requesting, at this time, comments on other portions of the Policy Statement nor on our procedures under 49 U.S.C. 47129.

Specifically, in addition to proposals for replacement provisions, the Department requests the following:

- A description of the existing aeronautical fee structures and methodologies in place at specific airport(s) (in the case of aeronautical users, airports where the user pays fees).
- The rationale for those methodologies and, if certain fees are negotiated, including a discussion of the factors considered in arriving at the final fee product.
- The explanation of the basis for distinctions between fees charged for airfield versus non-airfield assets, if applicable (and, if applicable, between terminal facilities and hangars and maintenance facilities). The basis may include industry practice, airport market power, airline market power, etc.
- Evidence that would support a determination that airports do or do not possess or use monopoly power in setting aeronautical fees and a discussion of the comment's view of the issue. In the proceeding that led to the Policy Statement, airport operators and airport users disputed whether airport proprietors can and do exercise monopoly power in pricing essential aeronautical facilities.
- Proposals on methods to curb abuse of any monopoly power in a fee reasonableness standard.
- If comments suggest a change in fee structures or methodologies, comments should include an explanation of how the proposal would affect the economic behavior of airports and air carriers. Comments should also justify the proposal under the statutory reasonableness standard (49 U.S.C. 40116(e) and 47107(a)) and explain how the proposal addresses the concerns raised by the court.
- Comments should also address the suggestion in *ATA* v. *DOT* that ''Congress intended the Secretary to fashion a quasi-legislative uniform approach [for several different methodologies, depending on the circumstances] to measuring the reasonableness of airport fees.'' 119 F.3d at 40. Examples of approaches that would meet the court's concerns, accompanied by justification based on

industry practice, economic behavior, and other relevant criteria are invited.

• Comments requesting the Department to readopt any of the vacated provisions should include suggestions on how the Department could better justify doing so in light of the concerns raised by the court.

Accordingly, the Department is requesting comments on the matters stated above and is requesting proposals to replace provisions for the vacated portions of the Policy Statement.

Petitions for Rulemaking

The petitions for rulemaking of ACI/AAAE and ATA evidently start from different assumptions and propose significantly divergent policies. Moreover, as discussed above, the Department has determined that additional information and input is needed before a specific proposal is formulated. Accordingly, the Department is opening a new docket to receive comments on fee reasonableness. The Department is taking no further action on these petitions at this time. Therefore, this Advance Notice of Proposed Policy is limited to the issues raised by *Air Transport Association of America* v. *Department of Transportation,* 119 F.3d 38 (D.C. Cir. 1997). The substance of the two petitions will be considered along with the comments submitted by other interested parties. Comments on the petitions may be submitted during the reply period.

Issued in Washington, D.C. on August 5, 1998.

Rodney E. Slater,

Secretary of Transportation.

Jane F. Garvey,

Adminsitrator, Federal Aviation Administration.

[FR Doc. 98–21607 Filed 8–11–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending July 31, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4265.

Date Filed: July 30, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC2 EUR–ME 0059 dated July 14, 1998. Europe-Middle East Resolutions r1–35 PTC2 EUR–ME 0060 dated July 17, 1998—Minutes, PTC2 EUR–ME Fares 0019 dated July 28, 1998—Tables Intended effective date: January 1, 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–21584 Filed 8–11–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent to Rule on Application to Impose a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, Illinois and Use FPC Revenue at Gary Regional Airport, Gary, Indiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a FPC at Chicago O'Hare International Airport and use the revenue from a PFC at Gary Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 11, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Mary Rose Loney, Commissioner, of the City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, Illinois 60666. Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip M. Smithmeyer, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, Illinois 60018, (847) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Chicago O'Hare International Airport and use the revenue from a PFC at Gary Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 15, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 5, 1998.

The following is a brief overview of the application. PFC application number: 98–09–C–00–ORD.

Level the PFC: $3.00.

Original charge effective date: September 1, 1993.

Revised proposed charge expiration date: November 1, 2011.

Total estimated PFC revenue: $1,540,000.00.

Brief description of proposed project(s):

a. Phase II Airport Master Plan
b. Terminal Apron Expansion
c. Snow Removal Equipment

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on August 6, 1998.

Robert Benko,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–21602 Filed 8–11–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4209]

Red River Manufacturing, Inc., Receipt of Application for Decision of Inconsequential Noncompliance

Red River Manufacturing, Inc. (Red River), a manufacturer of trailers, of